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July 1, 2010

The Honorable Jeffrey J. Keyes
U.S. Magistrate Judge
Warren E. Burger Federal Building
316 North Robert Street
St. Paul, MN 55101

Re: *Sterling Serino v. Afni, Inc.*
Case No. 0:10-cv-01812 JRT/JJK
Hennepin County District Court File No. 27-CV-10-7114
Our File No. 2559-10

Dear Magistrate Judge Keyes:

We write, with Your Honor's permission, to follow-up on this matter after the June 23, 2010 Pretrial Scheduling Conference at which Plaintiff *pro se* failed to appear. At that time we indicated to the Court that we had discovered that Plaintiff was in Chapter 7 bankruptcy. We have since learned that Plaintiff has moved to New York. We now write to follow up with regard to issues raised by these developments. Below is a timeline of relevant dates and a synopsis of our current position.

March 9, 2010 – The call upon which Plaintiff bases his allegations takes place on this date. Plaintiff alleges that Afni violated the FDCPA by speaking with his girlfriend and revealing the existence of the debt. Afni denies this and asserts that Plaintiff's girlfriend represented herself as Plaintiff's spouse. It is proper to discuss a consumer debt with the consumer's spouse.

March 26, 2010 - Plaintiff files for bankruptcy protection under Chapter 13, Bankruptcy # 10-42172

April 6, 2010 – Plaintiff files his lawsuit against Afni.

April 26, 2010 - Plaintiff's Chapter 13 bankruptcy is converted to Chapter 7. A copy of the docket for the bankruptcy file is included with this letter.

Earlier this week, Mr. Serino called counsel for Afni out of the blue. He indicated that he had moved to New York.

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Afni is considering several options, including seeking dismissal of the suit on one or more bases. First, even assuming Plaintiff's claim has merit, Plaintiff lacks standing to assert such a claim as such claims belong to the bankruptcy estate. Second, Plaintiff was required to list the alleged claim as an asset in bankruptcy and it appears that he failed to do so; hence the suit should be dismissed on the basis of fraud on the bankruptcy court. (A review of the bankruptcy filings did not reveal that Plaintiff had identified his claim against Afni.)

We respectfully submit that this matter should be dismissed for lack of standing on the part of Plaintiff. We are considering our options in this regard.

Very truly yours,



Susan E. Gustad

SEG:kjr

Enclosure

cc: Sterling Serino (via U.S. Mail to address listed with Bankruptcy Court and ECF)
165 Monroe St.
Brooklyn, NY 11216

963435

CONVERTED, ProSeDebtor

**US Bankruptcy Court [LIVE]
District of Minnesota (Minneapolis)
Bankruptcy Petition #: 10-42172**

Assigned to: Chief Judge Nancy C Dreher
Chapter 7
Previous chapter 13
Voluntary
No asset

Date filed: 03/26/2010
Date converted: 04/26/2010

Debtor
STERLING SERINO
165 MONROE ST
BROOKLYN, NY 11216
SSN / ITIN: xxx-xx-2102

represented by **STERLING SERINO**
PRO SE

Trustee
Jasmine Z Keller
12 S 6th St Ste 310
Minneapolis, MN 55402
612-338-7591
TERMINATED: 04/26/2010

Trustee
Randall L. Seaver
12400 Portland Avenue South
Suite 132
Burnsville, MN 55337
952-890-0888

U.S. Trustee
US Trustee
1015 US Courthouse
300 S 4th St
Minneapolis, MN 55415
612-664-5500

Filing Date	#	Docket Text
		Chapter 13 voluntary petition re: STERLING SERINO . Summary of schedules and statistical summary of certain liabilities, Schedules A-J - Forms 6A - 6J, Declaration concerning debtor's schedules - Form 6, Statement of financial affairs - Form 7, Statement of current monthly income and calculation of commitment period and disposable income (Form 22C). Fee Amount \$137.00 Final installment payment due by 4/26/2010. Government Proof of Claim due by 9/22/2010. (Grace

03/26/2010	<u>1</u>	MNBM) (Entered: 03/26/2010)
03/26/2010	<u>2</u>	Certificate of credit counseling filed by STERLING SERINO . (Grace MNBM) (Entered: 03/26/2010)
03/26/2010	<u>3</u>	Debtor's income records filed by STERLING SERINO . (Grace MNBM) (Entered: 03/26/2010)
03/26/2010	<u>4</u>	Chapter 13 plan filed by STERLING SERINO . (Grace MNBM) (Entered: 03/26/2010)
03/26/2010	<u>5</u>	Application to pay filing fee in installments filed by STERLING SERINO . (Grace MNBM) (Entered: 03/26/2010)
03/26/2010	<u>6</u>	Order Granting Application to pay filing fee in installments. Final installment payment due by 4/26/2010. (Grace MNBM) (Entered: 03/26/2010)
03/26/2010		Filing fee paid for <u>6</u> noneOrder on application to pay filing fee in installments. Receipt number 190360, Fee amount \$137.00 (Grace MNBM) (Entered: 04/20/2010)
03/28/2010	<u>7</u>	BNC Certificate of Mailing. Service Date 03/28/2010. (Admin.) (Entered: 03/28/2010)
03/29/2010	<u>8</u>	Meeting of Creditors. Trustee Jasmine Z Keller assigned to the case . 341 (a) meeting to be held on 4/28/2010 at 03:50 PM at Office of Ch 13 Trustee, Jasmine Keller- 12 S 6th St Rm 310, Minneapolis. Last day to oppose dischargeability: 6/28/2010. Proofs of Claims due by 7/27/2010. Confirmation hearing to be held on 6/3/2010 at 10:30 AM at Courtroom 7 West, 7th Floor, 300 S 4th St, Minneapolis - Judge Nancy C. Dreher. (Sheila MNBM) (Entered: 03/29/2010)
03/31/2010	<u>9</u>	BNC Certificate of mailing - Meeting of creditors. Service Date 03/31/2010. (Admin.) (Entered: 04/01/2010)
03/31/2010	<u>10</u>	BNC Certificate of Mailing - Ch 13 Plan. Service Date 03/31/2010. (Admin.) (Entered: 04/01/2010)
04/26/2010	<u>11</u>	Verified conversion (local form 1019-1) chapter 13 to chapter 7 filed by Debtor STERLING SERINO. Exhibits, attachments, schedules, statements, and lists appropriate for chapter 7 case, Signature declaration. Trustee Jasmine Z Keller removed from the case. Randall L. Seaver added to the case. Fee Amount \$25. (LindaS MNBM) (Entered: 04/26/2010)
04/26/2010	<u>12</u>	Order on incomplete conversion. SUMMARY OF SCHEDULES AND DECLARATION OF SCHEDULES due by 5/10/2010. (LindaS MNBM) (Entered: 04/26/2010)

04/26/2010	<u>13</u>	Meeting of Creditors. 341(a) meeting to be held on 6/1/2010 at 03:30 PM at Mtg Minneapolis - US Courthouse, 300 S 4th St 10th Floor. Certificate of completion of financial management course due 7/16/2010. Last day to oppose discharge or dischargeability is 8/2/2010. (Sheila MNBM) (Entered: 04/26/2010)
04/26/2010	<u>14</u>	Receipt of Chapter 13 Final Installment Filing Fee - \$137.00 by HJ. Receipt Number 00190569. (admin) (Entered: 04/26/2010)
04/26/2010		Filing fee paid for <u>11</u> noneConversion of chapter 13 to chapter 7 by debtor. Receipt number 190570, Fee amount \$25.00 (Heidi MNBM) (Entered: 04/27/2010)
04/28/2010	<u>15</u>	Chapter 7 completion filed by STERLING SERINO . Summary of schedules and statistical summary of certain liabilities, Declaration concerning debtor schedules - Form 6. (Sheila MNBM) (Entered: 04/28/2010)
04/28/2010	<u>16</u>	BNC Certificate of mailing - Meeting of creditors. Service Date 04/28/2010. (Admin.) (Entered: 04/29/2010)
04/28/2010	<u>17</u>	BNC Certificate of Mailing. Service Date 04/28/2010. (Admin.) (Entered: 04/29/2010)
04/28/2010	<u>18</u>	Added creditors to matrix. Creditor(s) added to the case: TORRESS CREDIT, CREDIT ACCEPTANCE, ACC CONSUMER FINANCE, AFNI INC, CREDITOR INTER CHNG, FIRST FINANCIAL BANK, AARON SALES & LEASE, RMI, SAN ANGELO NATIONAL BANK, PINNACLE CREDIT SERVICE, DEPENDON COLLECTION SE, MONTEREY FINANCIAL SVC. (Kristi MNBM) (Entered: 05/07/2010)
05/13/2010	<u>19</u>	Notice of returned <u>13</u> Meeting of creditors chapter 7 No Asset re LEADING EDGE RECSOL LL. (Sheila MNBM) (Entered: 05/13/2010)
05/14/2010	<u>20</u>	Chapter 13 trustee's final report and account. Converted. (Keller-AD, Jasmine) (Entered: 05/14/2010)
05/14/2010		IT IS ORDERED by Judge Dreher. Trustee, JASMINE KELLER, is discharged. (Sheila MNBM) (Entered: 05/14/2010)
06/01/2010	<u>21</u>	Notice of change of address for STERLING SERINO filed by STERLING SERINO. (Lynne MNBM) (Entered: 06/02/2010)



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